

Michael M.K. Sebree #142649  
William E. Adams #153330  
Dawn Newton #209002  
FITZGERALD ABBOTT & BEARDSLEY LLP  
1221 Broadway, 21<sup>st</sup> Floor  
Oakland, California 94612  
Telephone: (510) 451-3300  
Facsimile: (510) 451-1527  
Emails: [wadams@fablaw.com](mailto:wadams@fablaw.com); [dnewton@fablaw.com](mailto:dnewton@fablaw.com)

Attorneys for Plaintiff  
HUBB SYSTEMS, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO

HUBB SYSTEMS, LLC,

Case No.: C07-02677 BZ

Plaintiff,

12 | vs.

**DECLARATION OF DAWN NEWTON  
IN OPPOSITION TO DEFENDANT'S  
MOTION TO DISMISS**

MICRODATA GIS, INC.,

Date: August 1, 2007

Defendant.

Time: 10:00 am

## Courtroom G

### Magistrate Ju

I, DAWN NEWTON, declare as follows:

1. I am an attorney with the law firm Fitzgerald Abbott & Beardsley LLP, attorneys for Plaintiff HUBB SYSTEMS, LLC ("Plaintiff") in the above captioned matter. I submit this declaration in support of Plaintiff's motion for a preliminary injunction. I have personal knowledge of the matters set forth herein, unless otherwise stated on information and belief, and if called as a witness, I could and would competently testify thereto.

2. Defendant microDATA GIS, Inc. ("Defendant") utilizes a URL ("www.microDATA911.com") that incorporates the term "DATA911" which is a federally registered and incontestable trademark owned by Plaintiff.

3. On July 5, 2007, I conducted an internet search using the web address "www.microDATA911.com." A review of Defendant's "www.microDATA911.com" website reveals that Defendant openly uses "microDATA911" on its website to promote its goods and

1 services. The "microDATA911" mark used by Defendant, as reflected on its website,  
2 establishes that Defendant intentionally capitalizes the "DATA911" portion of its  
3 "microDATA911" mark to ostensibly emphasize the similarities to Plaintiff's federal trademark.  
4 (See Exhibits A and B.)

5       4. Through Defendant's "www.microdata911.com" website, I navigated to the  
6 website's News/Events section and then clicked on Trade Shows. According to Defendant's  
7 own website, between June and October 2007 it plans to attend a total of 11 conferences,  
8 including a five day conference in San Diego, California that ran from June 18<sup>th</sup> to June 22<sup>nd</sup>.  
9 Defendant invites website browers to "Visit us at these 2007 Trade Shows." A true and correct  
10 copy of the list of trade shows that was displayed is attached hereto as Exhibit A.

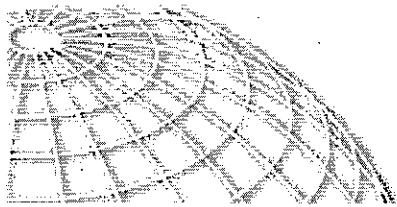
11       5. I also navigated to the website's Press Releases section under News/Events. The  
12 most recent press release listed is one which notes that Defendant recently sent two employees  
13 to Palm Spring, California to accept a Partner of the Year award as "microDATA 911." The  
14 press release also advertises Defendant's attendance at a California trade show, saying, "Check  
15 out microDATA 911 at booth #1531 June 18 - 22 at the ESRI International User Conference in  
16 San Diego, CA." A true and correct copy of this press release is attached hereto as Exhibit B.

17       6.      Defendant's other press releases establish that one of the two people it sent to  
18 Palm Springs to accept the award, Christine McMullen, is its Vice President of Business  
19 Development. A true and correct copy of another press release which refers to Ms. McMullen  
20 as the VP of Business Development is attached hereto as Exhibit C.

21 I declare under penalty of perjury as set forth under the laws of the State of California  
22 that the foregoing is true and correct and that this declaration was executed on July 6, 2007, in  
23 Oakland, California.

Dawn Newton  
Dawn Newton

**EXHIBIT A**



microDATA has si  
and added som  
will be vi

Home Solutions Products Services Customer Care Business Partners News/Events Info Request  
**NEWS/EVENTS**

Trade Shows

Press Releases

Technology Seminar

eNewsletters

## Trade Shows

### Visit us at these 2007 Trade Shows:

**ESRI International User Conference**  
 June 18 - 22  
 San Diego, CA.  
 Booth Number: 1531

**Washington State APCO Conference**  
 June 27 - 29  
 Wenatchee, WA  
 Booth Number: 48

**APCO International Conference and Exposition**  
 August 5 - 9  
 Baltimore, MD  
 Booth Number: 2107

**Kentucky Emergency Services Conference**  
 September 4 - 6  
 Owensboro, KY

**Tennessee Emergency Number Association Annual Conference**  
 September 9 - 12  
 Gatlinburg, TN

### Presentations

**Oregon APCO/NENA Annual Show**  
 September 11  
 Welches, OR

**Pennsylvania NENA Conference**  
 September 12 - 14  
 State College, PA

**Georgia NENA Fall Conference**  
 October 8 - 12  
 Athens, GA

**Alabama NENA Gulf Coast Conference**  
 October 14 - 17  
 Orange Beach, AL

**South Carolina NENA/APCO Conference**  
 October 25 - 27  
 Myrtle Beach, SC

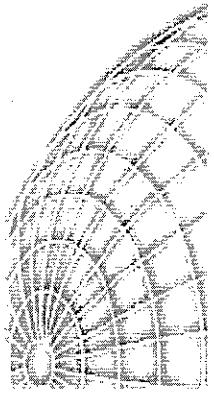
**APCO Atlantic Chapter Conference**  
 October 29 - 31  
 Hartford, CT

[About microDATA](#) [Legal Terms](#) [Careers](#) [Contact Us](#)

microDATA 911 1016 U.S. Route 5 St.Johnsbury, VT 05810 800.722.6663 802.748.5503 802.748.5447 fax sales@microdata911.com

© 2006 microDATA GIS, Inc. All Rights Reserved.

**EXHIBIT B**



**microDATA** Together, we're changing  
the world of 911

[Home](#) [Solutions](#) [Products](#) [Services](#) [Customer Care](#) [Business Partners](#) [Press Releases](#)

[Trade Shows](#)  
[Technology Seminar](#)  
[eNewsletters](#)

## microDATA 911 ESRI Partner of the Year

[Press Releases](#)

[ESRI Partner of Year](#)

[Vermont goes IP](#)

[Holly Stone](#)

[Sam Bard](#)

[Nate Wilcox](#)

[Martinsville-Henry, VA](#)

[Pictometry](#)

April 23, 2007

**St. Johnsbury, VT** — The ESRI Boston regional office recently named microDATA 911 Partner of the Year at their National Business Partner Conference in Palm Springs, California. ESRI praised microDATA 911 founder, Bruce Heinrich, for his early acknowledgement that GIS applications would have a powerful impact on locating a 9-1-1 caller and saving lives and property. "microDATA 911 has been changing the world of 9-1-1 by specializing in GIS-based E9-1-1 software and data development. They [have] steadily built a commitment to ESRI technology with an integrated suite of products called 'The X-Solution' that are fully integrated with the ArcGIS architecture. We appreciate the continued long-term contributions to our business partner relationship," stated ESRI's Dawn Caravallo.

Check out microDATA 911 at booth #1531 June 18 - 22 at the ESRI International User Conference in San Diego, CA.

[Link to ESRI website](#)

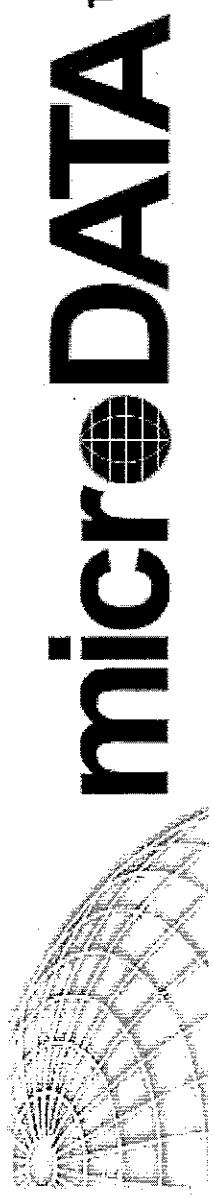


On behalf of microDATA 911, Allison Cassavechia and Christine McMullen accept the ESRI Partner of the Year award at the ESRI Worldwide Business Partner Conference in Palm Springs, CA.

|   |                             |                         |   |
|---|-----------------------------|-------------------------|---|
| <a href="#">About microDATA</a>                         | <a href="#">Legal Terms</a> | <a href="#">Careers</a> | <a href="#">Contact Us</a>  |
| microDATA 911 1016 U.S. Route 5 St. Johnsbury, VT 05810 | 800.722.6663                | 802.748.5503            | 802.748.5447 fax <a href="mailto:sales@microdata911.com">sales@microdata911.com</a> |

© 2006 microDATA GIS, Inc. All Rights Reserved.

**EXHIBIT C**



[Home](#) [Solutions](#) [Products](#) [Services](#) [Customer Care](#) [Business Partners](#) [News/Events](#) [Info Request](#) [Careers](#)

## Press Releases

### Trade Shows

Technology Seminar

eNewsletters

Press Releases

ESRI Partner of Year

### Vermont goes IP

Holly Stone

Sam Bard

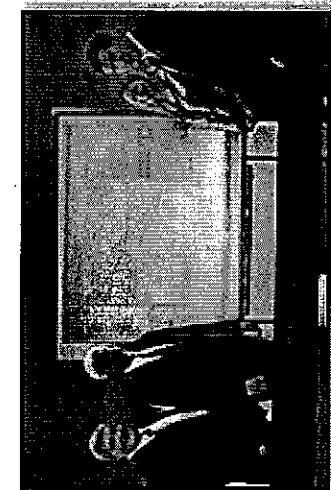
Nate Wilcox

Martinsville-Henry,  
VA

### Pictometry

**St.Johnsbury, VT** — In early February, 2007 microDATA 911 and Vermont became the first to implement a state-wide, NG 9-1-1 system. In the words of David Serra, Executive Director of Vermont's E911 Board, "We never intended to make history. Circumstances and events forced Vermont to be first. Now, by virtue of being on a platform based on internet protocol, we can more easily take advantage of innovations in information technology that will greatly assist emergency responders in critical situations."

**March 20, 2007**



microDATA's VP of Business Development, Christine McMullen, spearheaded the deployment of the solution which connects and services the 10 PSAPs in the state. "Packetizing data is something we have been working with for over a decade," says McMullen, "but now we have had the opportunity to bring all our experience and technical expertise together: our work with the Vermont 9-1-1 team heralds the next stage in building out an NG 9-1-1 system to other states, counties and PSAPs across the nation."

Many aspects of the new Vermont system signify a paradigm shift in a fairly static industry. Not only is it capable of providing redundancy built on an extremely robust IP network but is

comprised of common off the shelf equipment. The ease of installation and maintainability sets the bar for 9-1-1 services moving forward. "This robust system is capable of handling today's 9-1-1 challenges and enables Vermont to support emerging technologies," stated McMullen.

"We are very pleased that we could team with microDATA 911 to provide the public with the first statewide, IP-based 9-1-1 system in the nation," states Serra.

[About microDATA](#)   [Legal Terms](#)   [Careers](#)   [Contact Us](#)

**microDATA 911**   1016 U.S. Route 5   St.Johnsbury, VT   05819   800.722.6663   802.748.5503   802.748.5447 fax   [sales@microdata911.com](mailto:sales@microdata911.com)

© 2006 microDATA GIS, Inc. All Rights Reserved.